IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JOSEPH and JOSEPHINE A., minors by their next friend, CORRINE WOLFE, et al.,

Plaintiffs,

vs. CV. No. 80-623 JB

NEW MEXICO DEPARTMENT OF HUMAN SERVICES, et al.,

Defendants.

REPORT OF THE SPECIAL MASTER
(Filed Apr. 30, 1993)

To: The Honorable Juan G. Burciaga
Chief United States
District Judge

From: Frank B. Zinn
Special Master

Under authority of the Court's 10-9-87 order of reference, supplemented 2-3-88 & 11-8-89, and F.R.C.P. 53 (b), I submit my findings of fact and recommendations upon a disputed matter.

The issue is whether defendant DHS has been in continuous and substantial compliance with the Consent Decree for 12 months to cause the decree to expire by its terms. (Defts Ex O, § XII E).

This extended review of Defendants' compliance was ordered by the Court, 11-8-89. (Sp. M. Ex. II), recommitting pursuant to F.R.C.P. 53 (e)(2), my report of 6-6-89, (Sp. M. Ex. I).

This report supplements my 6-6-89 report. Both reports and the record of testimony and exhibits from the several hearings constitute the whole record before the Court for review under F.R.C.P. 53 (b).

Dated per file stamp.

Distribution:
Judge Burciaga and list in Clerk's notice of filing.

/s/ Frank B. Zinn
Frank B. Zinn
Special Master

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1 Introduction:

The Special Master's report (6-6-89) (Sp. M. Ex. I), found defendants to have been in continuous and substantial compliance for 12 months by 10-31-88, and recommended that the Court declare the expiration of the decree. (§ XII E).

The Court order (11-8-89) (Sp M. Ex. II) recommitted for additional hearings, the pending motions which raised the issue of whether, " . . . the Department has been in substantial compliance with [Consent Decree] terms for a continuous period of 12 months."

The parties stipulated that the scope of the hearing would include data as far as available into 1990.

Hearings were held March 18th thru 26th, 1991.

Post-hearing conferences were held upon the submissions to be made by the parties, and upon the extent of continued monitoring under the Decree. Following the conferences the parties prepared their stipulation of 8-1-91, approved by the Court 8-6-91. This agreement committed the parties to pursue settlement for ninety days. The parties stipulated and the Court approved, extensions of time for the settlement effort. The stipulation provided that during negotiations the Special Master would write a draft report on the issues. A full report was to be submitted to the court only if settlement efforts failed. To assist the parties with their settlement effort, my report defining the issues and summarizing evidence, without findings or recommendations, was circulated as a "discussion draft", pursuant to F.R.C.P. 53 (e)(5).

After the settlement effort failed, the parties submitted requested findings of fact and conclusions of law, supporting memoranda and counter-memos to each others' submissions. Their last submissions were received in December 1992.

The parties requested findings and conclusions and related memos are forwarded with this report. (Sp. Master's Ex.III & IV)

The consent decree put in place a system, equivalent to regulations, for dealing with children in DHS custody. It requires planning, action, supervision, and oversight

on a sequential timetable from first intake to final discharge.

The preamble to the Consent Decree states its purpose:

> " . . . fair, reasonable and timely decision making with regard to access to adoption, and to fair, reasonable and adequate procedures and practices necessary to insure access to permanent adoptive homes, . . . "

The court in an order, 10-27-88 expressed a view of the purpose of the Consent Decree duration proviso, § XII (A thru F):

> "This provision was designed to effect long-term institutional reform of the New Mexico foster-care system."

The Consent Decree duration proviso supplies a measure of 12 months of continuous and substantial compliance with the decree by DHS for it to expire and end its effectiveness.

The Court in the order of 11-8-89 (Sp M. Ex. II), as a reason for further hearings and supplemental findings, said:

> "The Court must be satisfied that the spirit and intent of the Consent Decree will continue to be served beyond termination of the Consent decree."

The issues under review are before the Court upon Plaintiffs' motion to punish Defendants for contempt for non-compliance (3-7-88), and Defendants' motion (3-25-88) for a declaration that they have been in substantial compliance for a year, thus ending the decree.

The total inquiry 1989 and as recommitted 1991, looked at DHS compliance with the essential elements of the Consent Decree.

The 1991 hearings examined performance from Nov.1988 through June 1990, (20 months) and some elements through Dec.1990, (26 months).

Witnesses reported some data from the DHS computer ADAPT system which compiles information on all children in custody. Other data came from case files of children in custody.

Expert opinion and reports on data they gathered comprise most of the evidence. The experts evaluated a case reading study by the Compliance Monitor. They examined and made a re-sampling survey of a DHS case reading done while testing a quality assurance program as a tool for management.

2 Summary of Issues.

For case management guidance, the essential elements of the Consent Decree were sorted into components with eight titles. The same titles with A thru H designation in the 6-6-89 report, (Sp M. Ex. I) have a 1 thru 8 designation in this report.

Two new components and titles are added for this report. 9. General Compliance, and 10. Future Comportment.

9. General Compliance, covers the ultimate fact in issue, substantial performance. This was weighed by the expert witnesses by judging compliance in general. They

also weighed compliance for each of the 8 consent decree components.

10. Future Comportment, is not a Consent Decree component. It came from the declaration of the Court (quoted pg.4 above) in the (11-8-89) recommittment [sic] order. (Sp M. Ex. II)

Defendants had the burden of proving their performance was in substantial compliance for a continuous period of 12 months.

The issues and opposing contentions follow, side by side:

The Parties' Contentions.

Decree Component	Defendants'	Plaintiffs'
1. Training	meets decree	no updating of training programs.
2. Caseloads	" "	overload of case workers, supervisors with cases, ineligibles with cases.
3. Planning & Review	" "	assessments inadequate; plans unprofessional; conference events missed, late, inadequate; event records & reporting faulty

4. Adoptions	" "	adoptive parent recruiting, tr'ng & matching inadequate; delays in consent or waiver action; adoption plans not referred promptly; legal steps not sought promptly
5. Legal Services	" "	legal work untimely; supervision impeded by lack of common data system.
6. Information & Records	" "	ADAPT data faulty; use of forms inadequate; legal svc computer system inadequate
7. Staff Qualification	" "	underqualified employees assigned caseloads
8. Citizens Review Boards	" "	DHS cooperation inadequate; required referrals not made.
9. General Compliance	" "	Fails substantiality test.
10. Future Comportment	Probable	Irrelevant to substantial compliance for 12 months.

3 Recommended Adjudication.

I recommend that the Court adjudge and decree the defendants have been in continuous and substantial compliance with the Consent Decree for 12 months and declare the decree has expired.

4 Findings of Fact.

The findings address each of the components and subparts; headnotes give decree provisions and summarize requirements.

1. Training.

1.1 *Training program.* (§ I A, B, C, D) Deft. must have a social services training program that has permanency planning for all staff, plus management training for supervisors.

Finding 1.1: Defendant DHS has a training program and has trained all childrens services personnel in permanency planning and all supervisors in management, continuously and substantially for 12 months.

2. Caseloads.

2.1 *Caseworker load limits.* (§ II). Case workers are to be assigned no more than 20 families or 35 children.

Finding 2.1: defendant DHS has maintained caseloads for child protective service caseworkers at levels within the Consent Decree limits of no more than 20 families or 35 children, continuously and substantially for 12 months.

2.2 *Supervisor loads.* Supervisors to be assigned no more than 6 caseworkers, and not carry caseloads, except in emergencies.

Finding 2.2: Defendant has maintained supervisor responsibility for caseworkers within the required limits and any caseloads carried by supervisors were within the permissible limits, continuously and substantially for 12 months.

3. Planning & Review

3.1 *9 day conference.* (§ III A) Within 9 days of custody, caseworker and supervisor must meet, plan and & write basic steps.

Finding 3.1: Defendant DHS has performed the 9 day conferences continuously and substantially for 12 months.

3.2 *30 day conference.* (§ III B) Within 30 days of custody, caseworker and supervisor must confer, devise, write and sign a permanency plan for the child stating goals, describing assessment procedures, fixing timetables and visitation schedules; identifying problems, describing reasons for custody.

Finding 3.2: Defendant DHS has performed the 30 day conferences continuously and substantially for 12 months.

3.3 *120 day conference.* (§ III D) Within 90 days of permanency plan, (120 days of custody), caseworker, supervisor and consultant to meet, devise, write and sign a treatment plan, stating goals, naming specific problems, listing steps to be taken, assigning responsibilies [sic] and

performance timetables to agency services, workers and parents.

Finding 3.3: Defendant DHS has performed the 120 day treatment planning events continuously and substantially for 12 months.

3.4 *Return home plan extended beyond 18 months.* (§ III I) When child's plan is return home past 18 months, requires written justification and reference to C.R.B.

Finding 3.4: Defendant DHS has performed the requirement for written justification and reference to C.R.B., extensions of return home plans past 18 months, continuously and substantially for 12 months.

3.5. *6 mos internal review.* (§ III C.) Permanency plan to be reviewed each 6 months by caseworker & supervisor.

Finding 3.5: Defendant has performed the requirement for 6 months internal revues [sic], continuously and substantially for 12 months.

3.6 *Dispositional conferences* (§ III E) Requires, conference of caseworker, supervisor and parents to review treatment plan to be submitted to Court.

Finding 3.6: Defendant has performed the requirement for dispositional conferences, continuously and substantially for 12 months.

3.7 *Judicial Review.* (§ III C.) Requires Judicial review of permanancy [sic] plan for every child in custody, each six months beginning with first dispositional hearing.

Finding 3.7: Defendant has performed the requirement for implementing judicial review, continuously and substantially for 12 months.

4. Adoptions.

4.1. *Notify atty when plan is adoption.* (§ III) When plan becomes adoption, if parental relinquishment is not obtained, then, (§ III K.1.) within 45 days, (earlier if relinquishment is improbable), worker must notify DHS attorneys.

Finding 4.1: Defendant DHS has notified the DHS attorneys of plans of adoption, continuously and substantially for 12 months.

4.2. *Worker contact attorney.* (§ III K. 2.) Within 15 days of the notice of plan of adoption, worker must contact attorney to coordinate termination of parental rights.

Finding 4.2: Defendant DHS has performed the requirements for caseworker contact with DHS attorneys on adoption plan steps to terminate parental rights, (T.P.R.) continuously and substantially for 12 months.

4.3 *Notify C.A.U. when plan becomes adoption.* (§ III L.)

Finding 4.3: Defendant DHS has performed the requirement of notifying C.A.U. of plans of adoption, continuously and substantially for 12 months.

4.4 *C.A.U. to begin file review for adoptive matching.*

Finding 4.4: Defendant has not complied with the requirement that the central adoption unit begin file review for adoptive matching upon receiving notice of a plan of adoption.

4.5 *File to C.A.U when child freed.* (§ IV A.) Within 5 days after child freed for adoption, refer file to C.A.U. to review and complete.

Finding 4.5: Defendant DHS has performed the requirement to send case files to C.A.U. within 5 days when a child is freed for adoption, continuously and substantially for 12 months.

4.6 *Home studies to adoption caseworker.* (§ IV C) After receiving file of a child freed for adoption, C.A.U. to send available home studies of potential adoptive parents to adoption caseworker, within 10 working days or no later than 30 days; or 60 working days for "special needs" children.

Finding 4.6: Defendant DHS has performed the requirement that C.A.U. supply caseworkers with available home studies continuously and substantially for 12 months.

4.7 *Evaluation of approved families.* (§ IV D) Within ten days of adoptive family approval they are to be evaluated for placement of any available children, with evaluation logged

Finding 4.7: Defendants have met the requirement for evaluation of newly approved families for available placements continually and substantially for 12 months.

4.8 *Special recruitment.* (§ IV E) If no matching decisions made within 60 working day [sic] of referral of child, C.A.U. to begin a planned, documented special recruitment effort.

Finding 4.8: Defendants have met the requirement for special recruitment continuously and substantially for 12 months.

4.9 *Adoption agency lists and referrals.* (§ IV F) D.H.S. to keep lists of adoption agencies and exchanges and log all cases referred to them.

Finding 4.9: Defendants have met the requirement for keeping lists of adoption agencies and exchanges and logging all cases referred to them continuously and substantially for 12 months.

4.10 *Adoption recruitment plan.* (§ IV G) D.H.S. to have a plan to recruit adoptive families, with plan content reviewed and updated annually.

Finding 4.10: Defendants have met the requirement of having a recruitment plan and updating it annually, continuously and substantially for 12 months.

4.11 *Adoption worker training.* (§ IV H & § V B) D.H.S. to train all adoption caseworkers in recruitment and matching and home studies before assigning them cases or home studies.

Finding 4.11: Defendants have met the requirement for training adoption caseworkers before giving them assignments, continuously and substantially for 12 months.

4.12 *Home studies – procedures.* (§ V C) Home studies to be guided by state of the art social work procedures.

Finding 4.12: Defendants have met the requirement for home study procedures, continuously and substantially for 12 months.

4.13 *Post-placement services.* (§ V D) D.H.S. to provide special needs children psychological care before adoption decree and after decree if deemed needed to preserve the placement.

Finding 4.13: Defendants have met the requirement for providing psychological care, continuously and substantially for 12 months.

4.14 *Placement disruption actions.* (§ V. E & F) If adoptive placement is disrupted, must seek written psychological evaluation to determine child's needs, with follow-up if treatment indicated; (§ V. F) Re-placement to be immediate, with revised treatment plan.

Finding 4.14: For children with placement disrupted, defendant has obtained written psychological evaluations, provided treatment when required; made immediate re-placements and written revised treatment plans, continuously and substantially for 12 months.

4.15 *Notice of post-placement services.* (§ V G) D.H.S. to inform prospective adoptive families of services and subsidies.

Finding 4.15: Defendants have performed the requirement of informing potential adoptive families of post-placement services and of subsidies available, continuously and substantially for 12 months.

4.16 *Private agencies to meet decree:* (§ V H) D.H.S. to require hired adoption agencies to comply with decree standards.

Finding 4.16: Defendants have met the requirement for having outside agencies hired for adoption work, comply with decree standards, continuously and substantially for 12 months.

5. Legal Services.

5.1 *Legal services.* (§ VI A) D.H.S. must have legal services on staff or hired outside.

Finding 5.1: Defendants have met the requirements for having legal services, continuously and substantially for 12 months.

5.2 *Application for t.p.r.* (§ VI B) Reasonable time for filing petition to terminate parental rights, (t.p.r.) is within 30 days after attorney receives facts.

Finding 5.2: Defendants have not performed the requirement of timely filing of petitions for termination of parental rights, continuously and substantially for 12 months.

5.3 *Legal services plan.* (VI C) D.H.S. must have legal service plan.

Finding 5.3: Defendants have met the requirement of having a legal service plan continuously and substantially for 12 months.

6. Information & Records System.

6.1 *Computer based data plan and system.* (§ VII A & B)

Deft required to have computer based data system and plan with all elements of information recorded for each child in custody, to improve management and to

allow measurement of performance of Consent Decree requirements.

Finding 6.1: Defendants have performed the requirement of having a computer based system and plan to record data on all children in custody, continuously and substantially for 12 months.

6.2 *Other Records and forms.* (§ III K, O; § V G; § VIIB.) Standard forms required.

Finding 6.2: Defendants have met the requirement of having standard forms of required records, continuously and substantially for 12 months.

6.3 *Compliance information supplied to monitor.* (§ VII C.) Requires computer base to produce reports on all data related to consent decree performance and made available to compliance monitor.

Finding 6.3: Defendants have met the requirement of having all data on consent decree elements in the computer data base and available to the compliance monitor continuously and substantially for 12 months.

7. Staff Qualifications.

7.1 *caseworker education & experience.* (§ VIII. A) Chile welfare service caseworkers must have a bachelors decree in social work or related field and one year work experience in social work or a masters degree in social work.

Finding 7.1: Defendant has performed the requirement of assigning as case workers, persons with the required

education and experience, continuously and substantially for 12 months.

7.2 *Supervisor & consultant education & experience.* (VIII B & C) Supervisors must have bachelors degree and three years social work experience; consultants must have masters degree and three years social work experience.

Finding 7.2: Defendant has performed the requirement of assigning as supervisors and consultants, persons with the required education and experience, continuously and substantially for 12 months.

8. Citizens Review Boards.

8.1 *Referrals for 6 months review.* (§ IX. B) All children in custody to be reviewed every six months by Citizens Review Board with DHS to refer cases and supply files and consultation.

Finding 8.1: Defendant has performed the requirement of referring and supplying information and consulting for children in custody to the Citizens Review Boards, continuously and substantially for 12 months.

8.2 *Uncorrected non-compliance to C,R,B.* (§ XI G) Children to be referred to a Citizen's Review Board within six weeks of date of uncorrected non-compliance with decree.

Finding 8.2: Defendant has had no uncorrected non-compliances requiring action and has been in compliance with this decree provision, continuously and substantially for 12 months.

9. General compliance.

9.1 *12 months continuously and substantially.* (§ XII E) Duration . . . until such time as the Department has been in substantial compliance with its terms for a continuous period of twelve months."

Finding 9.1: Defendants have been in substantial compliance with the Consent Decree for a continuous period of 12 months.

10. Future Comportment.

10.1 *Probability of performance equal to decree.* (Order of 11-8-89 (Sp M. Ex II). The Court must be satisfied that the spirit and intent of the Consent Decree will continue to be served beyond termination of the Consent Decree.

Finding 10.1: Defendants have institutionalized policies and practices consistent with the Consent Decree requirements, so as a reasonable probability they will continue to provide children in D.H.S. custody, fair, reasonable and timely decision making with regard to access to adoption, and to fair, reasonable and adequate procedures and practices necessary to insure access to permanent adoptive homes.

5 Requested Finding of Fact Refused.

The Parties submitted requested findings of fact. Their submissions are forwarded with this report as Special Master's Exhibits, III (Defendants') and IV (plaintiffs'). Each party asked for findings on basic factual issues and also on many evidentiary details. Those requests were carefully studied. The specific evidentiary

details were considered and the evidence referenced was reviewed. Findings on the details are not necessary. Findings on the basic issues are made.

The findings made in this report are intended to decide and declare the ultimate facts of compliance with each component and overall compliance with the Consent Decree for 12 months.

Requested findings contrary to those found are refused.

6 Summary of Evidence.

The evidence is summarized under the title, of the eight Consent Decree (1 thru 8) and two added components. 9. General Evidence and 10. Future Comportment, to which it seems relevant

As noted in the introduction, much of the evidence came from experts who made statistical profiles of performance under the consent decree components as reported by ADAPT for all children in custody during the 1989-1990 period of time studied. Some expert testimony was based upon statistical profiles of performance under the consent decree components drawn from samplings of randomly selected case files of children in custody.

Opinions based upon review of case files specially selected by counsel for plaintiffs were given by experts. Three files were of siblings, named as the L-H children, Robert L. Kris L. & Kennetha H. Another file was of the Z child named as Alexis Z.

Dr. William Meezan, Ph. D. in Social Welfare, (resume Pltfs Ex. 85), testified and made a report. (Plts Ex. 81). He

provided charts (Pltfs Ex. 87, 87a, 88) to show the sequence of events experienced by the L-H children.

Dr. Robert L. Handron, D.O., child Psychiatrist. (Resume Pltfs Ex. 86) told his findings and opinions on the L-H children and the Z child, from his review of Dr. Meezan's report.

Presented by the Defendants, on these selected cases, were:

Dr. Marc Caplan, Ph.D. licensed psychologist testified about his findings and opinion on Alexis-Z, based upon Dr. Meezan's report and also from his personal knowledge.

Doris Amundson, a DHS Social Work Supervisor testified about her experience with the L-H children.

In the summary under the component to which their evidence appears relevant, the notation will show:

L-H or Z, then the witness's name. (e.g *L-H Meezan.*).

1. Training.

Angela Adams. Ms Adams is Children's Court Attorney for the DHS. She was acting director of the Social Services Div. for most of the 1989-1990 period covered in this report.

She said the permanency planning training for social workers and supervisors was as it was in 1987-1988 covered by the 1988 hearings. Supervisor training is being revised to include administration and management programs. The managers and consultants are also in this program.

A revised prospective training program is Defts EX JJJ.

Ms. Adams said that the annual permanency planning training for the past four years was conducted under contract with the University of New Mexico. Natalie Porter, Phd. of the UNM School of medicine has directed the training program.

Natalie Porter, Ph.D. Dr. Porter is a clinical psychologist, of the UNM School of medicine, (resume is Defts EX YYY-2) She has directed the DHS training program. She described the content of the programs administered, the changes made over the years, and projected new programs.

Mary Ann Shaening, Ph.D. Dr. Shaening, (resume Deft. Ex, YYY-1) directs Shaening and Assoc., consultants in research, program planning and evaluation.

Dr. Shaening said in her opinion, Defts. had substantially met the training requirements of the Consent Decree during the period April 1987 through December 1990.

Dr. Shaening made reports, mostly from DHS ADAPT of data on all children in custody, for each of eight components of performance. (Defts EX, AAA 1)

Dr. Shaenings report Table 2, shows supervisors, managers and consultants received timely permanency planning training: 91.4% in 1988, 96.3% in 1989, 100% in 1990.

Defts. EX AAA.1, Table 3, reports that new caseworkers had received timely permanency planning training: 86% in 1st quarter 1989, 100%, 2nd & 3d quarters

1989, 92% 4th quarter 1989, 100%, 1st, 2nd & 3d quarters 1990, 96.3% 4th quarter 1990.

Field Service Panel. The two managers said all of their workers had received required training. They had records of the training undergone by each employee.

2. Caseloads.

2.1 *Case worker load limits.*

Mary Ann Shaening, Phd. Social worker 20 family caseloads are reported in table 5 of her report (Defts Ex. AAA-1).

4th qtr. 1988, 83%	3d qtr 1989, 75%	2nd qtr 1990, 77%
1st qtr 1989, 76%	4th qtr 1989, 73%	3d qtr 1990, 81%
2nd qtr 1989, 71%	1st qtr 1990, 76%	4th qtr 1990, 83%

Workers with caseloads under the 35 children limit are shown as 100%, except for 4th qtr 1990; one had 37 another 39.

Dr. Ronald G. Faich. Dr Faich, Ph.D., Sociology & Research, (resume Pltfs Ex. 83) is the compliance monitor, appointed (1-15-90) for duties prescribed in § XI of the Consent Decree.

Dr. Faich made studies and reports and testified.

He compiled caseworker load data (2.1) by counting workers with loads exceeding 20 families and compared the number as a percentage of all case workers. (Plts Ex. 68.)

	21 +	25+	30+	total	% of all
1st qtr 1989,	30	15	8	53	24.1
2nd qtr 1989,	39	15	14	68	31.6
3d qtr 1989,	37	11	10	58	27.0
4th qtr 1989,	30	14	15	59	27.2
1st qtr 1990,	25	15	16	56	25.4
2nd qtr 1990,	30	8	17	55	24.8
3d qtr 1990,	25	10	9	44	19.5
4th qtr 1990,	24	16	3	43	19.0

2.2 *Supervisor loads.*

In Table 6 of Defts. Ex. AAA-1. Supervisors who met the 6 caseworker limit were shown to be:

4th qtr. 1988, 65.1%
1st qtr 1989, 65.9%
2nd qtr 1989, 81.8%
3d qtr 1989, 79.2%
4th qtr 1989, 83.7%
1st qtr 1990, 80.9%
2nd qtr 1990, 82.1%
3d qtr 1990, 75.0%
4th qtr 1990, 72.9%

Dr. Shaening attributed the overload situations to an excess number of client service agents assigned to some supervisors.

Dr. Faich compiled data on supervisors with caseloads. He said ADAPT did not measure how long a case was carried by a supervisor, so the 60 days for emergencies was not evaluated.

Dr. Faich also compiled data on Social Work Associates and Client Service Agents carrying caseloads. (Defts Ex. GGGG)

Janet Escudero. Ms Escudero is the manager of DHS ADAPT systems. She said Dr. Faich's report showing

social worker associates and child service agents with child services caseloads, was an understandable error. Children in home care, not in custody are assigned to those workers. ADAPT does report these assignments.

3. Planning & Review.

3.1 *9 day conference.*

Dr. Shaening. (Defts Ex. AAA-1) Using ADAPT information, Dr. Shaening compiled occurrence and timeliness of 9 day staffing events from 2nd qtr 1987 through 4th qtr 1990. The performance reported for 4th qtr 1988 thru 4th qtr 1990 was 94% to 99%.

She noted that in a table she had prepared, comparing DHS compliance performance rates between 1987-1988 and 1988-1991, (Defts Ex. CCC) the timely occurrence of 9 day conferences had improved from 88% to 97%. It was her opinion that DHS was in substantial compliance with 9 day conference requirements.

Dr. Shaening said ADAPT does not report the attendance of caseworker and supervisor at the 9 day conference.

Dr. Faich: (Pltf's. Ex 67) Dr. Faich's report on the staffing events was from his random sample of 276 case files of children in custody during 2nd qtr 1989 thru 2nd qtr 1990.

On timely occurrence of the 9 day conference, reported by districts, he found: 1st, 90.9%, 2nd 87.5%, 3d 87.5%, 4th, 81.2%, from which he calculated 86.8% for a state average.

L-H & Z-Meezan Record doesnt show any nine day conferences.

3.2 *30 day conference.*

Dr. Shaening. (Defts Ex. AAA-1) Using ADAPT information, Dr. Shaening compiled occurrence and timeliness of the 30 day staffing events for 2nd qtr 1987 through 4th qtr 1990. The performance for 4th qtr 1988 thru 4th qtr 1990 was 84% to 94%.

Dr. Shaening said ADAPT does not show the permanency plan required by the Consent Decree as part of the 30 day conference.

Her review of the Quality Assurance study found low rates of performance of required elements for the 30 day conference.

Dr. Shaening said obtaining parental participation in the 30 day conference was successful 50 to 60 percent of the time. Caseworker participation was 92% and for supervisors was 93%.

She noted that in (Defts Ex. CCC) comparing DHS compliance between 1987-1988 and 1988-1991, the 30 day event timeliness had improved from 68% to 94%. It was her opinion that DHS was in substantial compliance with 30 day conference requirements.

Dr. Ron Faich. Dr Faich reported timeliness and required content of the 30 day conferences by DHS districts; 1st-63.6% 2nd-6.2% 3d-41.7% 4th-37.5%. = state average 37.2%

Theodore J. Stein, Ph.D. (Resume Pltfs Ex. 84)

Dr. Stein is a consultant and professor of social welfare. He was involved in the writing of the Consent Decree and has reviewed compliance by DHS since 1982. For the matters under review he studied the reports of Dr. Faich, the Quality Assurance test results compiled by Dr. Shaening and ADAPT reports.

Dr. Stein also performed a case reading (Pltf Ex. 71) of 60 files from the 276 files Dr. Faich had reviewed.

Dr. Stein reports (Pltfs Ex. 89 and Pltfs Ex 71), the files showed 63% with assessment plans, and 16% of the plans found, had all required elements.

He prepared graphs (Pltfs Ex 77) to illustrate his findings and opinions about the 30 day and 120 day conference occurrences.

Dr. Stein noted the variability of reports on the 30 day conference having occurred, with Dr. Faich reporting, 37.2%, the Quality Assurance study, 12.7% and ADAPT, 89.0%.

Dr. Stein said ADAPT was not reliable to measure the planning events. It omits plan completion with required elements of persons present, signatures and custody reasons.

Dr. Stein said it was his opinion that DHS was not in substantial compliance with the Consent Decree requirements for assessment plans.

John Kalejta, Mr. Kalejta is a Social Work Consultant with the DHS. He is a licensed master social worker.

He reviewed the same 60 file sample from Dr. Faich's study examined by Dr. Stein. Mr. Kaletja found plans in

all files. He charted his findings, (Defts Ex. FFF). For each of 21 required elements he found content varying from a 97% high (custody reasons) to a 32% low, (timetable for steps).

Field Service Panel. All members said the 30 day conferences were held regularly in their districts.

L-H & Z Meezan. Inadequate assessment plans, late, no permanency goals, no timetables, responsibilities not stated, some signatures missing.

L-H Amundson. Permanency goals are stated in the file.

3.3 *120 day conference.*

Dr. Shaening. Dr. Shaening said ADAPT shows the date of the 120 day planning conference. It does not report the treatment plan or its required contents.

Dr. Shaening's reports (Dfts. ex AAA-1) on timeliness of the 120 day conference shows, 4th qtr 1988 as 87%, intervening qtrs, as high as 99%, one low of 84%, ending at 4th qtr 1990, with 88%.

Dr. Shaening noted in (Defts Ex. CCC) comparing compliance between 1987-1988 and 1988-1991, the 120 day conference rates had improved from 74% to 91%. It was her opinion that DHS was in substantial compliance with 120 day conference requirements.

Dr. Faich. Dr Faich reported timeliness and plan content requirements of the 120 day conference by DHS districts: 1st-60.6% 2nd-65.5% 3d-43.5% 4th-38.7%. = state average 52.6%.

He said that in 21 cases of 55 with missing elements for completeness, they lacked one or two signatures. Based on 116 cases sampled, he calculated 52.6% or 61 cases had all elements.

Dr Faich prepared a modified calculation, (Pltf Ex. 94) dropping the 21 with signatures missing. Refigured, there were then 76 cases with substantially all requirements, raising his calculation of the state average to 66.4%.

Dr. Stein. In Dr. Stein's reports (Pltfs Ex. 71 and 89) the sampling of files show 98% with treatment plans, and 19% of the plans found, had all required elements.

Dr. Stein noted the 120 day conference was variably reported as having occurred, with Dr. Faich reporting, 66.4%, the Quality assurance study, 15.5% and ADAPT, 91.8%.

Dr. Stein said that the lack of complete assessment and treatment plans adversely affected the ability of the defendant agency to make fair, reasonable and timely decisions with respect to children in custody.

Dr. Stein said the use of general boiler-plate language instead of writing case specific child, family and agency needs and duties made the plans ineffective.

Dr. Stein said it was his opinion that DHS was not in substantial compliance with the Consent Decree requirements for 120 day treatment plans.

Mr. Kalejta, Mr. Kalejta's findings, (Defts Ex. FFF) on treatment plans, found required contents varied from a 97% high (services to be provided), to a 31% low, (process for problem solving).

Field Service Panel. Each reported the 120 day conferences are regularly held in their districts. One said timeliness is affected when Consultants and others required, unavoidably miss scheduled conferences.

L-H & Z Meezan. Not timely; plans do not list responsibilities; no timetables for performance; services not specified.

3.4 *Return home plan beyond 18 months.*

Dr. Shaening in her report (Defts Ex. AAA-1) from ADAPT data, has tables to show the percentage of cases of children with a permanency plan of return home extended beyond 18 months. The tables show by quarters, from 4th qtr 1988 through 3d qtr 1990, 9% low to 13% high.

Dr. Faich. Dr. Faich made a special sampling of case files of Children with a return home plan over 18 months. His report (Pltfs Ex. 67). Shows of 50 cases sampled, 17 had conferences and 7 had justifications for the continued Plan.

Dr. Stein. Dr. Stein sampled and studied 39 case files from Dr. Faich's case reading.

He said 47% of the cases in which a justification was due for a return home plan extension, had none.

Mr. Kalejta. Mr. Kalejta also examined the same 39 files from the Faich samples. His report (Defts Ex. FFF) shows 27 of 39 had justifications. Of the 27, 44% were adequate.

3.5. *6 mos Internal Review*

Dr. Faich Dr. Faich's study (Pltfs Ex. 67) sampled files for notations of departmental internal review. He measured the due date as 6 months after the 120 day conference.

He examined 52 files statewide. He found 16 had one or more required elements missing. He found 29 overdue by a month or more. He noted that all 52 internal review report forms had been signed by a consultant and had permanency goals.

3-6. *Dispositional conference.*

Dr. Shaening in her report (Defts Ex. AAA-1) compiled from ADAPT information, has tables to show occurrence and parental attendance at dispositional conferences directed by III, 3, D of the Consent Decree, for children put in D.H.S custody as a result of being adjudged neglected or abused. The conference is required if there is a hiatus between first custody and the dispositional hearing in Court. Notice to parents is required and their attendance sought for the Conferences.

The tables by quarters, from 4th qtr 1988 through 4th Qtr 1990, show occurrence of conferences, 81% low and a 91% high. Parental attendance is reported as 76% low and 86% high.

3.7 *Judicial review.*

Dr. Shaening. In her report (Defts Ex. AAA-1) compiled from ADAPT information, Dr. Shaening has tables on occurrence of judicial review. ADAPT does not log action to seek review.

Similarly Dr. Shaening compiled ADAPT data on referral by D.H.S. to Citizens Revue Boards. Cases due

for judicial review are to be flagged three months ahead, to initiate C.R.B. action before the Court review.

The table shows by quarters, from 4th qtr 1988 through 4th Qtr 1990, occurrence of timely judicial review for cases due such attention, 66% low and a 90% high. C.R.B. review for the same period shows 81% low and 99% high.

Dr. Shaening noted that D.H.S has the obligation to refer the cases but does not direct the C.R.B. action.

Dr. Faich. Dr. Faich (Pltfs Ex. 67) sampled case files of children still having a plan of return home after 18 months. He reported the judicial review and C.R.B. occurrences.

For 58 children due for judicial review, 48 had no more than 8 months between reviews and 10 had up to 9 months.

For 58 children due C.R.B. review, 23 were on time and 35 were noted as late with one missed.

Dr. Faich noted that D.H.S has no control over the reviews.

4. Adoptions.

The Consent Decree has some adoption related provisions in § III Planning and Review, (notice to atty and C.A.U of plan of adoption, caseworker contact with atty to plan T.P.R,) and in the Legal Services provisions for timely filing of petitions for T.P.R. and asking for hearings on petitions.

4.1 *Notify attys of plan of adoption.*

Dr. Shaening. In her report (Defts Ex. AAA-1) compiled from ADAPT information, Dr. Shaening has tables to show occurrence of notification of attorneys of children with a plan of adoption for whom termination of parental rights (T.P.R.) must be pursued.

Dr. Shaening surveyed all 213 children due for such action for 9 quarters, 3d Qtr 1988 thru 3d Qtr 1990; 55 were timely (within 45 days) 142 were late, 16 were not referred.

Dr. Shaening digested (Defts Ex. EEE) the Quality Assurance survey of 192 children in custody 10-88-to 9-89. For 23 cases divided as to which parent T.P.R was sought, the net either late or not referred was 9 for fathers and 11 for mothers.

Dr. Faich. For the 58 children with plans of return home over 18 months, Dr. Faich found 19 who had plans changed to adoption with a need to terminate parental rights. He found 5 were referred to attorneys within 45 days and 14 were late. He studied another sampled group taken from all children in custody with a plan of adoption, during 4th Qtr 1988 thru 2nd Qtr 1990. Of 43 children he found 22 referred within 45 days, with the remainder delayed for periods of 46 to 299 days.

Dr. Stein. Dr. Stein discussed the figures gathered in his digest (Ptfs.Ex. 72) of the DHS Quality Assurance survey. He found 60% not timely referrals to attorneys for T.P.R.

L-H Meezan. Referrals to attorneys all late.

4.2 *Worker contact attorney.*

Dr. Shaening. In her report (Defts Ex. AAA-1) compiled from ADAPT information, Dr. Shaening has tables to show occurrence and timeliness, (within 15 days of the report of need for T.P.R) of contact by caseworker and attorneys for children with a plan of adoption for whom termination of parental rights must be pursued. Her inquiry included whether a timetable for the T.P.R. action was written.

From 4th Qtr 1988 through 4th Qtr 1990, of those due, 100% were held, with timeliness varying from 100% to 74%. The inclusion of the timetable varied from 54% to 85%.

Dr. Stein. His report on the Quality Assurance results show few worker-attorney contacts were timely when T.P.R was sought: for mothers 2 of 12, for fathers 5 of 14.

Dr. Faich. Dr. Faich looked for occurrence of the caseworker and attorney contact in the same files he had used to sample the referral for T.P.R. For 43 cases he found 11, no evidence, 19 occurred within 15 days, 8 within 30 days, 5 had no contact but had reasons noted.

L-H Meezan. No record in file of worker-attorney contact.

4.3. *Notify C. A. U. when plan becomes adoption.*

David Barrett. Mr. Barrett is head of Placement Services Section, (formerly Central Adoption Unit, C.A.U.). He is a Master Social Worker, MS U. Of W. Va. 1968.

Mr. Barrett said they receive notice of a plan of adoption from three sources: the ADAPT report, caseworkers written transmittal of a form 351 with partial case file and social work consultants' reports.

L-H Meezan. No notice of 1987 plan of adoption to C.A.U or Atty; 1988 plan of adoption not reported to C.A.U. until 1990.

4.4 *C.A.U. to begin review for adoptive matching.*

Mr. Barrett said no matching begins when notice of a plan of adoption is received. The information is used to predict needs.

He said they avoid the risks to children of any premature matching with prospective adoptive parents. They wait until the child is freed for adoption.

Dr. Shaening. In her report (Defts Ex. AAA) Dr. Shaening notes adoption matching begins after the child is legally freed.

She said ADAPT doesn't log the event of reporting of a plan of adoption to C.A.U. so the time span isn't measured.

4.5 *File to C.A.U. when child freed.*

Angela Adams. Ms. Adams said DHS interprets the term "freed", means all needed parental relinquishments have been obtained or the Court has by final order, terminated parental rights and the 30 day appeal time has passed with none taken.

Dr. Shaening. In her report (Defts Ex. AAA) Dr. Shaening tabulated the timeliness and delays in referral of cases to C.A.U. after the child is legally freed for adoption.

For the period 4th qtr 1988 through 4th qtr 1990, 100% of cases were referred. The numbers making it

within the 5 day time limit varied from a 53% low to 86% high.

Dr. Faich. Dr. Faich tabulated (Pltfs Ex. 67) time from child freed date to C.A.U. notice. In 22 cases in 4 DHS district offices, he found 11 within the 5 day requirement, and the rest spread from 6 under one month and 5 for up to two months.

4.6 *Home studies to adoption caseworker*

Dr. Shaening: In Defts Ex. AAA-1 Dr. Shaening noted the Consent Decree requires, if they have them, C.A.U., is to send home study files of eligible families to adoption caseworkers within 10 working days and must send them in 30 calendar days. (60 working days for special needs children. If no qualified family applicants are available, special recruitment effort is required.

Dr. Shaening summarized the numbers of home studies sent on children freed, as 100% from 3d qtr 1988 through 4th qtr 1990 within 60 days, with one child not timely 4th qtr 1988, and one 3d qtr 1990.

Mr. Barrett. Mr. Barrett said that Public Law 96-273 classifies as "special needs, hard to place", children who were over 5 years old, of a minority ethnic group, part of a sibling group, or with mild to moderate physical or emotional disabilities. He said 98% of New Mexico children in DHS custody, are special needs.

Dr. Faich. Dr. Faich's study (Pltfs Ex. 67) tables show time lapses in home studies sent to workers for children freed for adoption. Dr. Faich numbers were from files of two of his sampled groups: 3d qtr 1988- thru 2nd qtr 1990. For 11 children, 7 studies were sent within 60 days;

4 were after 150 days. For 14 children, 5 were sent within 30 days, 5 beyond 91 days, and 5 had no evidence.

Mr. Barrett. He said the practice is for an adoption consultant to begin matching studies from data on hand and report potential matches to adoption workers in the field.

4.7 *Evaluation of approved families.*

Dr. Shaening. In (Defts Ex. AAA-1) she notes the Consent Decree requires placement suitability home studies must begin within ten days of approval of an adoptive family.

Dr. Shaening reports ADAPT data on the ten day evaluations of newly approved families. Her chart showed that from 3d qtr 1988 thru 4th qtr 1990, all were done, with timeliness varying from 90 to 100% except for 1st qtr 1989 at 67%.

Mr. Barrett. He said the ten day evaluation of each approved adoptive family as a prospect for each child, not on track for a placement, was occurring and noted in ADAPT.

4.8. *Special recruitment.*

Mr. Barrett. He said special recruitment efforts are made when no adoptive family prospects are immediately available. Some of this work is conducted by use of adoption agencies under contract. They recruit families for children available.

4.9. *Adoption agency lists and referrals.*

Mr. Barrett described the contract DHS has with (R.M.A.E.) Rocky Mountain Adoption Exchange. (Defts Ex. UUU)

He said they have continuing efforts to recruit adoptive families for all freed children. One way they do this is to place children's photos and profiles in "Los Ninos", (Defts Ex. XXX), a twice yearly publication of the New Mexico Adoption Exchange, a unit of his division, placement Services.

Monthly, the Exchange distributes listings of all children needing placement, to all DHS county offices, adoption workers, supervisory staff and private placement agencies. The Exchange also publishes profiles on approved adoptive familes.

Mr. Barrett said the department has contracts with private agencies to conduct home studies of applicant adoptive families.

Dr. Shaening. In her report (Defts Ex. AAA-1) she noted that referrals to R.M.A.E. are logged in the case file and ADAPT.

In Defts Ex. MMM The New Mexico Adoption Recruitment Plan, the services rendered by R.M.A.E and DHS communication and use of other Private agencies are explained.

4.11 *Adoption worker training.*

Dr. Shaening. In (Defts Ex. AAA-1) she notes the Consent Decree requires two days of training in adoptive recruitment, matching and home studies for workers in that field. She said that since 2nd qtr 1988, 13 new adoption workers had been hired and all had received the two

days training. 9 were trained within 2 weeks and 4 within 6 months of hiring.

Mr. Barrett. He said the workers had the two days recruitment, matching and home study training. Also as a part of pre-service training they had one and a half days schooling in screening and matching.

4.12. *Home studies – procedures.*

Dr. Shaening. In (Defts Ex. AAA-1) Dr. Shaening charted the timeliness of completion of home studies of applicants to become adoptive parents. The Decree has 4 months as the standard with up to 6 months for applicants for special needs children.

Dr. Shaening charted home study results from ADAPT reports. From 3d qtr 1988 through 4th qtr 1990, the timeliness of home study completions were in percentages; with one lot of 70% 4th qtr 1989 and the rest above 85%; with all of 1990 above 91%.

She noted there were justifications on file for nearly all late actions. She said the drop in 4th qtr 1989 was concurrent with reorganizing the C.A.U. and transferring to field offices the duty to track home studies.

Mr. Barrett. Mr. Barrett explained that the home study program was more than an evaluation. It includes education and training of the families seeking to adopt. He said the FACT program, Foster and Adoption Combined Training program was conducted in accordance with a DHS manual. (Defts Ex. TTT)

He said the instructional manual (Defts Ex. VVV) directs home studies be completed within 5 months.

4.13 *Post placement services.*

Dr. Shaening. In Defts Ex. AAA-1 Dr. Shaening noted the Consent Decree requirement for D.H.S to provide special needs children with psychological treatment before and after adoption. Other post-placement and post-adoption services are required.

Notice to the prospective adoptive families of available services and subsidies is required to be given and recorded.

Mr. Barrett. Mr. Barrett said that medical and dental care and cash maintenance subsidies are provided as post-placement and post-adoption services. He cited a Jan 1991 report statistic, that 804 children in 542 families received subsidies.

Mr. Barrett explained the orientation and training program for applicant families includes information on support services.

He said the private agencies that provide home study and family recruitment, in their contract, agree to meet all Consent Decree requirements.

4.14 *Placement disruption actions.*

Mr. Barrett. Mr. Barrett said that for a period of three years they had a total of 66 disruptions of children placed for adoption with 41 re-placed with adoptive families.

He said New Mexico experienced a 10% disruption rate, compared to a national rate of 15% for special needs children.

Dr. Shaening. In her report (Defts Ex. AAA-1) Dr.Shaening noted the Consent Decree requires that

every child whose placement is disrupted is to have a psychological evaluation and report with treatment to follow if needed. The decree requires the disrupted child must be immediately re-located in another home. A revised treatment plan is required after any disruption and re-location.

Dr. Shaening's tabulation of disrupted placements, shows that for the period 3d qtr 1988 through 4th qtr 1990, only 8 children of 50 were not evaluated. Dr. Shaening said the files had explanations for the 8 not being evaluated; 1 was emancipated; 4 were under psychologial [sic] treatment; 3 siblings did not leave the home, remaining in foster care status when the foster parents elected not to pursue their adoption.

L-H Meezan. There were 11 placements in 4 years for Kennetha-H with no revised assessment or treatment plan.

4.15 *Notice of post-placement services.*

Mr. Barrett. The Dept policy is full disclosure of all facts on a child to prospective families. This is hoped to reduce disruptions. Families are told of all services and subsidies and this event is noted in the file.

4.16 *Private agencies to meet decree.*

Mr. Barrett. He said all contracts for adoption services with private agencies, include the obligation to comply with Consent Decree requirements.

5. Legal Services.

5.1 *Legal services.*

Angela Adams. Ms. Adams said the legal services program was about the same as in 1988. They have 21 attorneys, 16 Staff and 5 contract. District Attorneys no longer handle cases.

5.2 *Application for t.p.r.*

Dr. Shaening. She charted the timeliness of petition filing within 30 days of requests for T.P.R. by caseworkers from Legal Services records. The time was measured from the date the worker sent all data to the attorney.

For the Period 4th qtr 1988 through 4th qtr 1990, the timeliness varied from 50% to 57%.

Dr. Sheaning charted the timeliness of attorney's requests for court setting of hearings on petitions for TPR. The Consent Decree fixes 30 days as reasonable time. Dr. Shaening shows for the Period 4th qtr 1988 through 4th qtr 1990, the timeliness varied from 50% to 57%

5.3 *Legal services plan.*

Angela Adams. She said the agency Plan for Children's Legal Services is the same as it was in 1988. They have published a handbook to guide attorneys who are Court appointed as guardian ad litem or special advocates. (Defts Ex. ZZZ)

6. Information & Records.

6.1 *Computer based data plan and system.*

Dr. Shaening. In her report, (Defts Ex. AAA-1) Dr. Shaening summarizes the Consent Decree requirements for the system. The computerized system is to record 13 specific elements on all children in custody and 7 additional elements for those with a plan of adoption.

Angela Adams. Ms. Adams said the change from an independent computer system for the legal functions and converting them into the ADAPT network was almost complete.

Janet Escudero. The plan exists and there is a handbook.

Field Staff Panel. ADAPT monthly reports provide a tool to aid supervisors to plan future events. Some errors occur, but this is a minor problem. A code system controls data entry into ADAPT. Only the data entry operator and county manager have the key password. Each field office has a designated Data Entry Operator, usually the county office administrative secretary. Persons wanting data entered, provide the written information on a form. After data is entered the form is put into the case file.

6.2. *Other records and forms.*

Dr. Shaening. In Defts Ex. AAA-1 Dr. Shaening notes that the uniform case records, training records and personnel records are in general use.

6.3. *Compliance Information.*

Dr. Shaening. She said she had confidence in the validity of the information provided by the ADAPT system.

Dr. Stein. He said he concluded the ADAPT information was unreliable and could not be used to measure compliance with the Consent Decree. He explained his conclusion by noting the disparity in the case reading reports of events and the ADAPT reporting of the same event.

Dr. Faich. As compliance monitor, he undertook a comparison of ADAPT information on the occurrence of planning events from Dr. Shaening's study to his survey findings. He found a 15% higher rate reported in the ADAPT report. He said in his opinion the ADAPT figures had to be wrong.

Mr. Kalejta. Mr. Kalejta said the ADAPT system was reliable within limits. He worked on developing the DHS Quality Assurance experiment. He found ADAPT did not provide enough information to measure all performance elements they sought to examine. He does not believe anyone put false information into ADAPT.

Janet Escudero. Ms. Escudero is the ADAPT manager. She described various special reports prepared from ADAPT data. She said the "All Children in Custody" report is made monthly.

Ms. Escudero said the same data compiled quarterly with more specifics on counties is supplied to the Compliance Monitor.

Dr. Shaening. She compared the tallies of occurrence of events reported by Dr. Faich from his case readings, by

Dr. Stein and Mr. Kalejta from their reviews of the Quality Assurance study.

A chart of her findings is Defts Ex. JJJJ,. She said that the Quality Assurance study sampled 10% older cases, in 1984-85, so the sample from Q.A cant be compared with cases in Dr. Faich's sampling or to the ADAPT sample.

Dr. Shaening said that the differences in ADAPT numbers and the case sampling numbers could be accounted for by the subjective examination by one person to find elements, reporting affirmatively and the objective review by another person seeing an apparent lack of elements and reporting negatively. The ADAPT entry only notes happening and date, with no analysis of content of the file or of plans in the file. To illustrate the difference she noted Q.A. sampled 20 elements for the 30 day planning event.

Dr. Shaening said there is no evidence that ADAPT is being misused to manipulate dates in order to make things timely.

7. Staff Qualification.

7.1 *Caseworker education & experience.*

Angela Adams. Ms. Adams described a new DHS career program that coordinates responsibility and pay incentives. Defts Ex. NNN, shows the growth in numbers of social workers. She said the social worker turnover rate had dropped from 31% to 14.9% in two years. Social workers pay had risen 23.8%. She expected the new

Social Workers Licensure Act would further encourage social workers to stay.

Dr. Shaening In her report, (Defts Ex. AAA-1) Dr. Shaening noted the educational and experience standards of the Consent Decree are in State Personnel social worker rules. (Defts Ex. SSS).

7.2. *Supervisors & consultants education & experience.*

Dr. Shaening In her report, (Defts Ex. AAA-1) Dr. Shaening notes that since June of 1987, the state personnel requirements for supervisors matched the educational, and exceeded the experience requirements of the Consent Deecree.

She said State Personnel rules require consultants to have graduate degrees plus service as a social worker. Thi. exceeds the Consent Decree which allows experience equivalents in lieu of the graduate degree.

8. Citizens Review Boards.

8.1 *Referrals for 6 months review.*

Dr. Shaening. In her report, (Defts Ex. AAA-1) Dr Shaening notes the requirements for DHS coordination with the Citizenws Review Boards. Children freed for adoption and in substitute care are to have a plan review each six months by the C.R.B. and the Courts. C.R.B. reports, to be of use to the Court, are scheduled to match the Court review timetable.

Dr. Shaening said the ADAPT report flags a child two months before they are due for C.R.B. action. The county offices are responsible for readying and delivering the

records for C.R.B. use. This is to be done within two weeks of the occurrence requiring the referral. Any referral to a C.R.B. is to be logged on ADAPT.

Angela Adams. By policy the child's social worker is to be present at the C.R.B. conference.

Anita Van Dame. Ms.Van Dame is project director for the Citizens Review Boards. Her employer, under contract with the N. M. Youth Authority, is N. M. Program Assistance Foundation.

She said ADAPT information comes too late to enable them to prepare for a case review; social worker information is often lacking; DHS sometimes failed to report dispositions of children scheduled for C.R.B. review. To meet this problem C.R.B. staff usually does a reconciliation with the county offices to review and compare files on children coming up for review.

8.2 *Uncorrected non-compliance to C.R.B.*

Angela Adams. Ms Adams said the Consent Decree requirement § XI G., to refer a case to a C.R.B. in six weeks after an uncorrected, substantial non-compliance, has not arisen. Any such non-compliances have been corrected by supervisory attention.

9. General Evidence.

9.1 *12 months continuously and substantially.*

Dr. Stein. He offered a chart, (Pltfs Ex. 80). It graphs length of time in care as reported by ADAPT monthly report for Jan 1991, of all children in custody. The length of time in care for children who have a plan of adoption

is shown to be approximately three years and two months. He said the national experience was that children were adopted within three years of custody.

Dr. Stein said the charted data indicates the length of time in care has increased from 1.5 year in 1988 to 2.1 years in 1991. He did not have notes on the data drawn from the ADAPT report to make the graph.

Dr. Stein said it was his opinion the Dept. is not giving children fair, reasonable and timely decision making with regard to access to adoption. He said the institutionalizing of the procedures is incomplete. Some plans are in place but they are not adequate. Policies are in place but the procedures called for are not done consistently and routinely and are not monitored by management.

Angela Adams. Ms Adams said the figures Dr. Stein quotes for length of time in custody were erroneous. The 1988 data was not based on all children in custody but was a sampling made from about 800 cases. Comparing that number and a one month total for Jan 1991 is an erroneous comparison.

Dr. Shaening. Dr. Shaening said the total number in custody in the Jan 1991 report, includes 101 cases who came into custody and out again in the same month. This induced error into the averages used in Dr. Stein's figures about the increase.

Augius J. Narbutus. Mr. Narbutus is the DHS Admin. Services Director and Chief of Financial Management. By an affidavit (Defts Ex. LLLL) he provided figures on DHS

expenditures attributed to litigation over Consent Decree compliance.

The figures:	Attorneys fees	$1,813,213
	Attributable staff time	417,389
	Compliance Monitors	122,282
	Case Readings	49,800
	Consultants fees	284,762
	Other Expenses	128,223
	Total	$2,815,669

10. Future Comportment.

10.1 *Probability of performance equal to decree.*

Angela Adams. Ms. Adams described developments deemed to bear upon D.H.S.and its successor, the new Children's Services Department, abilities to continue and to improve upon the practices and procedures put in place by the Consent Decree.

She said that the New Mexico Children's Code, the Citizens Review Board Act and DHS regulations, effectively impose the performance obligations of the consent decree.

(Defts Ex. EEEE) is Ch 155 of the Laws of 1991. This amends the Fair Hearings proviso of 27-3-3 NMSA 1978, the Public Assistance Appeals Act. It affords claimants for services under childrens programs a right of hearing and Court review. The program includes a right to counsel, the Court Appointed Special Advocate (CASA). DHS regulations to implement this right and guide persons seeking such relief are Defts Ex. ZZZ.

Ms Adams described social service programs that have been implemented since the Consent Decree, include new policies and practices beyond those in the Decree.

(Defts. Ex. QQQ) reports the program called "Social Services Renewal". The theme is to bring entire families and the child in custody within the scope of planning and active delivery of services.

Functions within the program, have titles.

"Risk Assessment" focuses on the child's needs and exposures when preparing a treatment plan.

"Homebuilders" focuses on assisting and coordinating services to families to enhance the probability of success of a return home plan for the child in custody.

"Selective Placement" This has new concepts in the selection and training and use of foster parents.

"Parallel Parents", trains foster parents who do not take custody but who assist families with care of children in their home.

"Assessment Homes", selects and trains foster parents who can take children immediately upon their coming into DHS custody. They then assist social workers with planning to find optimum placements seeking to reduce disruptions.

"Conversion Homes", is designed to place children with foster parents who want to become adoptive parents.

Ms. Adams said the Dept had about a 9% average growth rate in the number of children taken into custody.

There has been some levelling off in the rate since 1989. The current number is about 7000 per year. Charts show the history. (Defts Ex. 000 & PPP).

Dr. Stein. He said the new programs have no bearing on the relevance of the Consent Decree standards. If they work they may affect the numbers coming into the program. There will always be children needing adoption. They are who the Consent Decree standards were designed to protect.

7 Discussion.

As stated on page one, the issue is whether defendant DHS has been in continuous and substantial compliance with the the Consent Decree for 12 months.

The conjunctive modifiers, "continuous and substantial" need to be examined in the context of the purpose of the Consent Decree. There is no doubt that the Consent Decree procedures were instituted before the 1988, 1989, 1990 years examined and were ongoing and not interrupted. If there was not substantial compliance the fact it was continuous does not matter.

The parties cited cases in their memoranda (Sp Master's Ex. III & IV) suggesting they might provide precedents in the measuring of substantial compliance. In the cases there were no absolutes. The common theme is the Court must subjectively weigh what was done against what was wanted.

What was wanted here is stated in the decree's preamble:

> " . . . fair, reasonable and timely decision making with regard to access to adoption, and to fair, reasonable and adequate procedures and practices necessary to insure access to permanent adoptive homes . . . "

The "procedures and practices necessary" are provided by the consent decree. Defts' performance of them to the level of substantial compliance is the issue.

For the findings made in this report the level of compliance was viewed, giving the word "substantial" its ordinary meaning.

> "Substantial . . . 5. that is such in substance or in the main, as, a substantial victory, 6 Considerable; large; as, a substantial gain." Websters New Collegiate Dictionary. 1961)

Plaintiffs suggest that at all levels non-compliance should be inferred from the evidence, of lack of timely performance, absence of records to log performance or incomplete plans.

The Deft's overall substantial compliance should not be judged by the files of the L-H children or the Z child. The procedures and practices guidelines of the consent decree anticipate some contingencies. In the case of these children extreme problems arose that thwarted efforts to free them for adoption. The placements made turned out badly. Efforts to follow planning steps or solve problems were poorly documented. From the lack of records, failure to make decisions and lack of management review are reasonable inferences.

My findings are not influenced by these selected instances.

The data gathered by the experts, either from all files in ADAPT or in statewide random sampling, as aggregated, are a better fact basis upon which to weigh substantial performance.

This discussion segment is intended to pull together the evidence and the findings of fact on the main areas of dispute.

In their post-hearing submissions the parties have done an outstanding job of reviewing the issues and explaining how the evidence favors their positions.

Both sides have identified the main issues in dispute.

Plaintiffs' memorandum "Reply to Defendants' Requested Findings of Fact and Conclusions of Law. " (part of Sp M. Ex. III) gives a succinct recapitulation of the main issues.

Their 4th paragraph shows the need to narrow the examination:

> "Though the consent decree contains hundred of provisions, the dispute between the parties focuses on a handful of areas that are at the heart of the decree. Most importantly, the plaintiffs contend that the defendants have failed to comply with decree provisions in three critical areas: (1) adoption timelines; (2) planning conferences; and (3) worker caseload limits.[1]

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[1] "Though these are the key areas of noncompliance, the plaintiffs have adduced evidence demonstrating the defendants' noncompliance with most provisions of the decree."

To focus upon those three "key" areas my discussion has components labelled as before when stating the issues, making findings of fact and summarizing evidence.

2. Caseloads
   2.1 Caseworkers
   2.2 Supervisors

3. Planning & Review
   3-1 9 day conf.
   3.2 30 day conf
   3.3 120 day conf.
   3.4 return home ext.
   3.5 6 mo int. rev.
   3.6 6 mo disp conf.
   3.7 6 mo jud. rev

4. Adoptions
   4-1 notice to atty
   4.2 contact atty
   4.3 Notify C.A.U.
   4.4 C.A.U file rev.
   4.5 file to C.A.U.
   4.6 home studies sent
   4.7 family evaluation.
   4.8 sp. recruitment
   4.9 Adopt. agencies
   4.10 Recruit. plan
   4.11 worker trng.
   4.12 home st. procedure
   4.13 post plcmt svcs.
   4.14 action on disruption
   4.15 notice of svcs.
   4.16 pvt agcy meet decree.

9. General Discussion

10. Future Comportment

Other components

2. Caseloads.

2.1 *Caseworkers.*

The numbers of the Consent Decree, 20 families or 35 children per caseworker were nearly met.

For the period under study for this report 1989 and 1990 the highest level was 83% and the lowest 71% of caseworkers not overloaded. The evaluation must ask,

"How overloaded were they?" and "Why were they overloaded?"

Looking at the "how?" there were none with overloads of more than 35 children. The 20 family limit was exceeded in the last year, by 24% declining to 17% of caseworkers.

The "why?" is manifold: disparity in district loads; caseworkers in short supply; lack of money limiting hiring; temporary overloads upon existing staff.

Improvements during the last year in these conditions seems likely to continue.

This evidence led to my finding 2.1, of compliance with the consent decree requirements for caseworker load limits, continuously and substantially for 12 months.

2.2 *Supervisor loads.*

What was said about the local conditions and caseworker shortages, is responsible for supervisors stepping in to manage caseloads until replacement caseworkers are assigned. Some such overloads were reported but none were shown to have extended beyond the 60 day emergency period allowed by the Consent Decree.

Supervisor to caseworker ratios beyond 1:6 reported indicate the larger number of overloaded supervisors are at just one over, being at the (1:7) level. The weighting system counts 5 client service agents as equal to one caseworker. An overload of C.S.A.'s produced most of the high ratio loads of 1:7.5 to 1:7.9 reported.

The desirable standards of the Consent Decree are nearly met. The efforts to achieve them are ongoing. This

evidence led to my finding 2.2 of compliance with supervisor load requirements of the consent decree continuously and substantially for 12 months.

3. Planning & review.

3.1 *9 day conference.*

There is a 97% - 99% timeliness of acheivement reported by ADAPT for this event. The evidence from the case samplings show consistently high levels of accomplishment and little untimeliness for this event.

This led to my finding 3.1 of compliance with this decree requirement, continuously and substantially for 12 months.

3.2 *30 day conference.*

Reporting by the experts for this event varied widely. The ADAPT data from Dr Shaening gave figures of timeliness up to 94%. Dr. Faich who looked at timeleness and content, found district lows and highs from 6.2% to 63.%. Dr. Stein looked for assessment plans. He found 63% of his 60 case sample had plans, with few having all elements. Mr. Kalejta looked at the same sample of files as Dr. Stein and found all with plans. He found content rates for 12 elements varied from 97% to 31%. The field service panel said the conferences are regularly held.

There is a high occurrence level for this event. The use of prescribed forms in making assessment plans has been standardized. As part of the DHS Social Service Renewal program, (Defts Ex. QQQ) risk assessment is emphasized. Ms. Adams explained how this focused on specific needs of the individual child and family.

Collectively the evidence led to my finding 3.2, that Defts were in compliance with this consent decree requirement continuously and substantially for 12 months.

3.3 *120 day conference.*

ADAPT shows occurrence and timeliness of this event improving from 1987-88, 74% to 1989-90, ranging 84 to 99%. Dr. Faich sampled 50 cases and found one without a plan. Of the remainder he found 66.4% of the treatment plans had all 9 elements. Dr. Stein's sampling found 98% with plans and 19% with all elements. Mr. Kalejta found of 61 cases with plans, the element contents varied from 97% for one element (services to be provided) to a low of 31% for one element (process for solving problems). The field service panel reported this event occurred regularly.

The collective evidence led to my finding 3.3 that Defts complied with this decree requirement continuously and substantially for 12 months.

3.4 *Return home plans beyond 18 months.*

Dr. Shaening's figures show small percentages of cases (9% to 13%) with a return home plan continued beyond 18 months.

Dr. Faich, Dr. Stein and Mr. Kalejta all examined files for content, looking for the treatment plan and justification for the extension. Any correlation between their flnding on plans and content was not attempted.

This evidence led to my finding 3.4 that the Deft. has complied with this consent decree requirement continuously and substantially for 12 months.

3.5 *6 months internal revue.*

Dr. Faich examined 58 files for timeliness; all had the 6 mos internal review documents. Slightly over half were timely with the rest late by one or two months. He sampled a set of 52 files for content of the internal review documents. All had the review; one had no form. A fourth had some elements missing.

This evidence led to my finding 3.5 that the Defts. have complied with this consent decree requirement continuously and substantially for 12 months.

3.6 *Dispositional conferences.*

Dr. Shaening used ADAPT data to chart the dispositional conferences. The conferences due and logged averaged 86.5% for the last 9 quarters (27 mos) examined. This evidence led to my finding 3.6 that the Defts. have complied with this consent decree requirement, continuously and substantially for 12 months.

3.7 *6 months judicial review.*

N.M. Children's Code requires review every 6 months of any child in DHS custody by the Citizens Review Boards and the Children's Court. Defts. can't control either activity, but are to complete file information and cooperate with the reviewers.

Dr. Shaening from ADAPT data and Dr. Faich from his case sampling report a high percentage of cases due being reviewed. The timeliness in each report varied with the number of late reviews falling mostly in the one or two month overdue area.

This evidence led to my finding 3.7 that the Defts. have complied with this consent decree requirement continuously and substantially for 12 months.

4. Adoptions.

4.1 *Notification of Attys.*

A monthly ADAPT report logs notification to attorneys of children not freed for adoption. Dr. Shaening surveyed all 213 children due for such action for 9 quarters, 3d Qtr 1988 thru 3d Qtr 1990; Notices for 26% were on time, (within 45 days), 66% were late; 8% were not noticed as the need for atty action changed. The monthly ADAPT reports were also sent to the Attorneys.

Dr. Faich and Dr. Stein through sampling arrived at similar percentages of untimely reporting to Attys. The reporting to attys. needs to be viewed together with the caseworker attorney contact to weigh the substantiality of performance in moving the case toward obtaining termination of parental rights.

This evidence led to my finding 4.1 that the Defts. have complied with this consent decree requirement continuously and substantially for 12 months.

4.2 *Contact Attorney.*

Dr. Shaening used ADAPT data to chart caseworker attorney contact due within 15 days of sending the form 351 and the casefile on a child needing t.p.r. action. For each of 9 qtrs. contacts were timely 85% of the time.

From a sample from the Q. A. survey Dr. Stein found of 26 cases due for caseworker to atty contact only 7 were

timely. Dr. Faich sampled 43 cases with plans changed to adoption and found in 11, no evidence of contact, 27 timely and 5 no contact.

The evidence shows various levels of untimeliness and incomplete documentation, but no cessation of movement.

This evidence led to my finding 4.2 that the Defts. have complied with this requirement continuously and substantially for 12 months.

4.3 *Notify C.A.U. when plan becomes adoption.*

Mr. Barrett said the Placement Services Section (C.A.U.) received information of a plan of adoption from three sources, ADAPT, the caseworker and the consultant.

This evidence led to my finding 4.3 that the Defts. have complied with this consent decree requirement continuously and substantially for 12 months.

4.4 *C.A.U. to begin file review for adoptive matching.*

Mr. Barrett said they don't do this. They hold off on any matching until the child is freed. The reasoning seems sound, but it doesn't meet the decree.

This evidence led to my finding 4.4 that the Defts. have not performed this consent decree requirement continuously and substantially for 12 months.

4.5 *File to C.A.U. when child freed.*

Dr. Shaening charted ADAPT data to show 100% of cases due were referred. How many made it within the

five day limit, for 9 quarters varied from 53% to 86%. The late reports fell largely in the 1 to 30 day late category.

Dr. Faich sampling produced a pattern of untimeliness of about the same degree as shown by ADAPT, about one quarter were past due less than one month and one quarter were past due over one and less then two months.

This evidence led to my finding 4.5 that the Defts. have complied with this consent decree requirement continuously and substantially for 12 months.

4.6 *Home studies to adoption caseworker.*

Dr. Shaening noted the requirement called for available homestudies of adoptive parents to go to adoption caseworkers.

Mr. Barrett said the adoption consultants screen the files to be sent out. Since 98% of New Mexico children are in the special needs classification. This puts most of the homestudy to caseworker timelines up to 60 working days.

Dr. Shaening reported only two cases didn't make the 60 day deadline for the 9 quarters examined.

Dr. Faich samplings of 25 files found about half were sent within 60 day. The rest were late from 90 to 150 days.

This evidence led to my finding 4.6 that the Defts. have complied with this consent decree requirement continuously and substantially for 12 months.

4.7 *Evaluation of approved families.*

Dr. Shaening reports 90% to 100% timeliness, except one quarter in 1989 at 67%.

This evidence led to my finding 4.7 that the Defts. have complied with this consent decree requirement continuously and substantially for 12 months.

4.8 *Special recruitment.*

Mr. Barrett said they concentrated on child specific adoptive family recruitment through the contract agencies and by people in his section and in county offices.

This evidence led to my finding 4.8 that the Defts. have complied with this consent decree requirement continuously and substantially for 12 months.

4.9 *Adoption agency lists and referrals.*

4.10 *Adoption recruitment plan.*

Dr. Shaening said the referral of children to outside agencies to recruit adoptive families is logged in ADAPT.

Mr. Barrett described the DHS program for recruiting adoptive families coordinated with the outside agencies.

Mr. Barrett's evidence on the DHS planning covered the publications and directives for coordinating private agency recruitment and DHS efforts through his office and county offices

This evidence led to my findings 4.9 and 4.10 that Defts. have complied with these consent decree requirements, continuously and substantially for 12 months.

4.11 *Adoption worker training.*

Dr. Shaening said 13 adoption workers had been hired since mid 1988. All had received the two days

specialized training. Mr. Barrett said these workers also received estra training in matching and home study procedure.

This evidence led to my finding 4.11 that the Defts. have complied with this consent decree requirement, continuously and substantially for 12 months.

4.12 *Home studies-procedures.*

Dr. Shaening charted ADAPT data on the timeliness of homestudy completion for approved families. For the 9 qtrs through 1990 the percentages of timely completion were at 85% and up to 91% for all of 1990.

Mr. Barrett said they hired private agencies to do home studies. The studies are more than evaluations. They include counseling and training of applicant families.

This evidence led to my finding 4.12 that the Defts. have performed this requirement substantially for 12 months.

4.13 *Post placement services.*

Mr. Barrett said psychological, medical and dental care and cash subsidies are provided.

This evidence led to my finding 4.13 that the Defts. have complied with this consent decree requirement continuously and substantially for 12 months.

4.14 *Placement disruption actions.*

Dr. Shaening tabulated disruptive placements as to the required psychological testing and treatment if needed. She found of 50 displacements during the 9 qtrs,

only 8 had not been evaluated. There were reasonable explanations for these.

This evidence led to my finding 4.14 that the Defts. have complied with this consent decree requirement continuously and substantially for 12 months.

4.15 *Notice of post-placement services.*

Mr. Barrett said the agency makes full disclosure to all adoptive family prospects. They are told of all services and subsidies, with this event logged in their file.

This evidence led to my finding 4.15 that the Defts. have complied with this consent decree requirement continuously and substantially for 12 months.

4.16 *Private agencies to meet decree.*

Mr. Barrett said the contracts require hired agencies to comply with consent decree standards.

This evidence led to my finding 4.16 that the Defts. have complied with this consent decree requirement continuously and substantially for 12 months.

9. General Compliance.

The sum of all the components cannot be added to make up a grand total or score on the ultimate issue. The consent decree has many deadlines with anticipated exceptions.

Some timeline failures are more serious than others. This ought to be weighed by the effect the delay caused children in their progress toward adoption.

The evidence shows steady improvement in timeliness during the 9 quarters (27 months) 1988 1989 1990 years examined.

My findings for two sub-components of not substantial performance, do not qualify my finding of general compliance.

10. Future comportment.

The consent decree duration provision, (§ XIII E), says that 12 months continuous and substantial compliance is the key to freeing Defts from the contract.

The Court recommitted the question of 12 months compliance for further fact finding, " . . . to be satisfied that the spirit and intent of the Consent Decree will continue beyond termination . . . "

In addition to evidence to prove compliance for 12 months, Defts put in evidence of laws, policies and programs to put in place parts of the consent decree and to go beyond.

This evidence led to my findings 10.1 that Defts. have institutionalized the consent decree programs so they will probably continue with the decision making, practices and procedures declared as the purpose for the consent decree.

Other Components.

1.1 *Training programs.*

All evidence was the programs were in place and being administered at all levels. This led to my finding

1.1 that the Defts met these consent decree requirements continuously and substantially for 12 months.

5.1 *Legal services.*

All evidence supported adequacy of the legal services program except the lack of ADAPT integration. This led to my finding 5.1 that the Defts have met this consent decree requirement continuously and substantially for 12 months.

5.2 *Applications for t.p.r.*

The Consent Decree, (§ VI B) says that except in exigent circumstances, 30 days after all necessary information is received by the attorney, is a reasonable time to file with the court for t.p.r. The finding of not substantial compliance in this sub-component was on the basis of the lack of evidence to explain the continuing high level of overdue filings. A possible cause, a lack of communication is inferred from the lack of promised integration of the attorneys computer system with ADAPT. The late filing with the Court for t.p.r seems a likely cause of serious delay in the process for the adoption matching process begins after the child is freed.

5.3 *Legal services plan.*

The agency plan in force for three years was not challenged as to sufficiency. This led to my finding 5.3 of continuous and substantial compliance with this decree requirement for 12 months.

6.1 *Computer based data plan and system.*

They have a plan and a system. Although there are mamy performance items that ADAPT does not record, it

covers all the items required by the consent decree directive. This led to my finding 6.1 that the system and plan complied with the consent decree continuously and substantially for 12 months.

6.2 *Other records and forms.*

The evidence was that standard forms had been prescribed by directives and were in general use throughout the system. That is the basis for finding 6.2 that Deft. had met records requirements continuously and substantially for 12 months.

6.3 *Compliance information supplied to monitor.*

The evidence was that the quarterly reports of ADAPT information on all children in custody were supplied to the monitor. This led to my finding 6.3 that Defts. had met the requirement for providing information to the compliance monitor continuously and substantially for 12 months.

7.1 *Caseworker education & experience.*

All evidence was that caseworkers hired met the consent decree standard. A new employee category, social worker associate, was not contemplated by the consent decree. The evidence was that only caseworkers had been assigned children in custody.

This evidence led to my finding 7.1 that Deft has met the consent decree requirement for this component, continuously and substantially for 12 months.

7.2 *Supervisor and consultant education and experience.*

All evidence was that supervisors and consultants met or exceeded the consent decree standards for their

employment. This led to my finding 7.2 that the Defts. met this decree requirement continuously and substantially for 12 months.

8.1 *Referrals for 6 months review.*

The evidence was Defts. met consent decree requirements. There was evidence of instances of mis-communication about children due for C.B.R. reviews. The citizens board staff were able to deal with the problems. The evidence led to my finding 8.1 that Defts met the consent decree requirements for referring cases for C.R.B. review continuously and substantially for 12 months.

8.2 *Uncorrected non-compliance to C.R.B.*

The evidence was that there had been no instance requiring such a referral. That is the basis for finding 8.2 that Defts met this consent decree requirement continuously and substantially for 12 months.

Conclusion.

All findings of fact as to components of performance with 2 minor exceptions, are that the Defendants have met the requirements of the consent decree continuously and substantially for 12 months.

It is my recommendation that the Court conclude the facts support a determination that the Consent Decree has expired.

Respectfully submitted,

/s/ Frank B. Zinn
Frank B. Zinn
Special Master

Date per filing stamp

INDEX OF EXHIBITS TO SPECIAL MASTER'S REPORT

[NOTE: the numbers used to identify exhibits are serially successive to those used for exhibits admitted in evidence during the hearings in May and October of 1988. The earlier exhibits were deposited with the Clerk of the Court June 6, 1989.]

Defts' Exhibits

AAA 1	Consent Decree performance report April 1987-Sept 1990 with addendum Oct-Dec 1990, report by Shaening & Assoc. Feb 1991
AAA 2	Consent Decree, County Performance April 1987-Sept 1990, report by Shaening & Assoc. Feb 1991
BBB	Compliance Monitor "Spot Check" Response: Data Collection Response: Statistical Findings Results: Independent Analysis, report by Shaening & Assoc. Feb 1991
CCC	Comparative Compliance Summary tabulation of results from several sources, of events required by consent decree.
DDD	Governor's Exec order Feb 20 1991 creating Task Force on Professionalism of Social Services Staff
EEE	Quality Assurance Field Test Results report by Shaening & Assoc. Feb 1991
FFF	Independent Analysis, Sub Samples For Review of Assessment Plans; Treatment

Plans, Return Home Justifications. report by John Kalejta M.S.W, Social Worker Consultant.

GGG — DHS SSD Institutional Policy and Procedure Summary. Compares Consent Decree requirements agency policy & procedure & regulations and plans.

HHH — Supervisor's Training Manual For Child Protective Service Workers (3 pgs cover & introduction) by Robert D. Koepke.

III — Management Training For Supervisors, course outline and statement of training objectives. (2 pgs)

JJJ — 1991 Training Schedule, Social Workers of varied levels.

KKK — Agreement (3-3-91) of DHS & UNM Mental Health Center for training of Social Workers of varied levels.

LLL — Proposal Format Scope For Program Services. (relates to Ex KKK)

MMM — N.M. Adoption Recruitment Plan July-1989-June 1990 by Barbara Y. Santistevan, M.A, M.S.W. Recruitment Specialist

NNN — (graph) SSD. Increase in No. of Social Workers, 1983-1990,

OOO — (graph) SSD No. of Children in Custody, No. of children in Substitute Care by quarters, June 1988-Dec. 1990.

PPP — (graph) SSD No. of Children in Custody May 1984-Dec 1990.

QQQ	Social Services Renewal-Family Preservation Strengthening New Mexico's Families, HSD SSD Renewal Report Nov 21, 1989 (pamphlet)
RRR	(graph) HSD Adoptive Placements 1985-1990
SSS	N.M. Personnel Board Classification Plans for Social Workers all Levels.
TTT	Outline for joint training program for foster care and adoptive applicants.
UUU	Contract HSD with Rocky Mtn Adoption Exchange for foster/adoptive parent recruitment program.
VVV	Interim Policies and Procedure for Foster/ Adoptive Training & Homestudies, Matching and Placement, And Establishment of District Placement Service Units. (SSD DrCtr. memo to Staff 3-8-91)
XXX	"Los Ninos", New Mexico's Adoption Magazine. Fall-Winter 1991.
YYY 1	Resume, Mary Ann Shaening, Phd.
YYY 2	Resume, Natalie Porter, Phd.
ZZZ	Two-Step Reviews of Substitute Care and Adoption Policies For Court-Appointed Special Advocates or Guardians Ad Litem. & Two-Step Reviews of Substitute Care And Adoption policies for parents. (HSD SSD pamphlets).
AAAA	(graph) SSD Child Abuse/Neglect Investigations 1984-1990.
BBBB	SSD Children's Service adoption regulations and forms.

DDDD	SSD Director to staff Memo 3-12-91 clarifying practices and requiring special staff training.
EEEE	Laws 1991 CH 155, amending 27-2-2 & 27-3-3 NMSA 1978, the Public Assistance Appeals Act.
FFFF	ACLU letter 3-11-91 to Ronald Faich, Phd. requesting analysis of data gathered by Dr. Faich.
GGGG	Dr. Faich, 3-16-1991, report on Social Work Associates and Client Service Agents with case loads.
HHHH	Dr. Faich's letter, 10-15 1990, to Deft's attys denying a request (Ex. IIII) for advance copies of Dr. Faich's survey questionnaires and data.
IIII	Letter 10-15-1990. Deft's Counsel to Dr. Faich.(described in HHHH above)
JJJJ	Comparative Compliance Information, tabulation of three sources reporting event occurrence.
KKKK	Joint Powers Agreement HSD & N.M. Youth Authority July 1, 1989 to transfer duties as to Citizens Review Boards.
LLLL	Affidavit of audit by Augius J. Narbutas May 3, 1991 of money spent by HSD SSD to defend and comply with Consent Decree.

Pltfs' Exhibits

64	Dr. Faich 7-27-90, Research Plan for monitoring compliance with consent decree.

65	Compliance Monitor Spot Check (blank form) Questionnaire for Children in HSD custody.
66	Compliance Monitor Spot Check (blank form) Questionnaire for Children with plans of adoption.
67	Dr. Faich 1-29-91 Report of the Research Project For the Monitoring of Compliance with the Consent Decree.
68	Dr. Faich 1-13-91, A Review of Case Worker and Supervisor Caseload Data For the Monitoring of Compliance with The Consent Decree.
71	Theodore J. Stein 3-16-91 Case Records Review of Assessment & Treatment Plans.
72	Theodore J. Stein 2-25-91 survey of consent decree compliance reflected in data from SSD Quality Assurance test report.
74a	(graph) Occurrence of 30 Day Conference.
74b	(graph) Occurrence of 120 day Conference.
75a	(graph) CAU Notification as Soon as Plan Becomes Adoption.
75b	(graph) Submission of TPR Information Within 45 days of Plan Becoming Adoption.
76a	(graph) Attorney-Worker Conference Within 15 days of Submission of TPR Information.

76c	(graph) Referrals to CAU within 5 days of Child Being Freed.
77	(graph) Occurrence of Decree-Mandated Planning Events According to Compliance Monitor, HSD Quality Assurance and ADAPT.
80	(graph) Average Length of Time In Care
81	William Meezan, Phd, Report on records of selected children in HSD custody.
82	Consent Decree Requirements by Data Source.
83	Resume, Dr. Ronald Faich.
84	Resume, Dr. Theodore J. Stein.
85	Resume, Dr. William Meezan.
86	Resume, Dr. Robert L. Hendren
87	(chart) Permanancy Planning: Robert & Kris L.
87a	(chart) Placement History: Robert & Kris L.
88	(chart) Placement History Permanancy Planning: Kennetha H.
89	(graph) Assessment/Treatment Plans.
93	SSD Quality Assurance Protocol (aggregated figures)
94	Dr. Faich, 3-18-91, Revised Table V-4 120 day conferences.

Spec. Master's Exhibits

I	Sp. Master's Report of June 6, 1989.
II	Court's order of Nov. 8, 1989 recommitting the report of June 6, 1989 with instructions.
III	Consent Decree & 1st & 2nd stipulated orders.
IV	Defendant's submissions, requested findings and conclusions & memos.
V	Plaintiff's submissions, requested findings and conclusions & memos.
VI	Transcripts of Testimony, 7 volumes. hearings 17-26 March 1991. (Deposited with Clerk)